

REMARKS

Claims 2, 3, 5-13, 16-19 and 21 are pending in this Application. Claims 6, 10, 11 and 16 are written in independent claim. By this Amendment, claims 1, 4 and 20 are cancelled without prejudice or disclaimer and claims 2, 3, 5-11 and 16 are amended. No new matter is added.

Interview

A telephone interview was conducted on November 10, 2009 between Examiner Barrera and Applicants' representative to clarify certain issues relating to the rejection of the claims based on foreign language reference JP 4-248219 to Yanagawa. For example, Applicants' representative requested that the Examiner point out where in the English language abstract of JP 4-248219 to Yanagawa that the feature of a displaceable armature is disclosed. The Examiner explained it is allegedly well-known in the art that reed switches, as disclosed in JP 4-248219 to Yanagawa, have armatures that are displaceable.

Allowable Subject Matter

Claims 6, 10-13, 16, 17 19 and 21 are indicated as being allowable if rewritten in independent form. Claims 6, 10, 11 and 16 are rewritten in independent form and therefore are allowable. As the remaining pending claims depend from an allowable claim, all pending claims are in condition for allowance.

Claim Rejections Under 35 USC §103

Claims 1-5, 7, 8 and 18 are rejected under 35 USC §103(a) as being unpatentable over JP 4-248219 to Yanagawa. The rejection is respectfully traversed.

In rejecting the claims the Examiner relies on a foreign language reference having only an English language abstract. Applicants respectfully remind the Examiner that when relying on a foreign language document in support of a rejection, "if the document is in a language other than English and the Examiner seeks to rely on that document, a translation must be obtained so that the record is clear as to the precise facts the Examiner is relying upon in support of the rejection (MPEP §706.02).

As a translation has not been provided, the rejection is improper and should be withdrawn.

Further, when an abstract is used to support a rejection, the evidence relied upon is the facts contained in the abstract, not additional facts that may be contained in the underlying full text document. Citation of and reliance upon an abstract without citation of and reliance upon the underlying scientific document is generally inappropriate where both the abstract and the underlying document are prior art (MPEP §706.02(II)). As the Examiner has not provided a translation of the reference and the Abstract fails to disclose or suggest the features of the claims, the rejection is improper and should be withdrawn.

However, in an effort to expedite prosecution, and without admission that Yamada renders the rejected claims unpatentable, the claims are amended to incorporate allowable subject matter. As such, withdrawal of the rejection and allowance of the present application is requested.

CONCLUSION

In view of the above, Applicant earnestly solicits reconsideration and allowance of all of the pending claims.

Should there be any matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the telephone number of the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

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